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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,910	09/29/2003	Mark E. Jensen	1217.18404	9230

26308 7590 11/03/2004

RYAN KROMHOLZ & MANION, S.C.  
POST OFFICE BOX 26618  
MILWAUKEE, WI 53226

EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/671,910

Applicant(s)

JENSEN ET AL. 

Examiner

Michael P. Ferguson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8,9,11,12 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 2,6,7,10,13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/09/04, 05/03/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 3, 9, 10 and 16 are objected to because of the following informalities:

Claim 1 (line 11) recites "locking member movable". It should recite --locking member being movable--.

Claim 3 (line 1) recites "The index". It should recite --The indexer--.

Claim 9 (line 11) recites "locking member movable". It should recite --locking member being movable--.

Claim 10 (line 4) recites "index translator". It should recite --indexer translator--.

Claim 16 (line 13) recites "locking member movable". It should recite --locking member being movable--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 8, 9, 11, 12 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams (US 2,801,142).

As to claim 1, Adams discloses an indexer for use with a limb support bar extending from a mount, the indexer comprising:

a housing unit **17,19,28** including a supporting base member **18**, the base member having an upright member **19,28**, the upright member defining a cavity;

an indexer translator **20** rotationally mounted within the cavity, the translator directing rotational movement of the limb support bar **25**, the translator including a chamber, the chamber arranged to receive a locking member **22,30**;

the locking member being movable in a plane substantially perpendicular to the base member, the base member and the locking member each including means for retaining the translator in a predetermined rotational position; and

biasing means **32** for normally separating the indexer translator and the locking member (the end of locking member **22** extends through and is thus separated from indexer translator **20**; Figures 2, 4 and 5).

As to claim 3, Adams discloses an indexer wherein the biasing means **32** comprises a spring (Figure 5).

As to claim 4, Adams discloses an indexer comprising a track **21,23** located on the base member **18**, the track providing guide means for rotational movement of the translator **20** (Figure 2).

As to claim 5, Adams discloses an indexer wherein a topside of the upright member **19,28** provides frictional force against the extension bar **25** (via translator **20**), the frictional force allowing the extension bar to be locked in an extended position (Figure 2).

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As to claim 8, Adams discloses an indexer wherein the base member **18** comprises a pair of spaced apart upright members **19,28**, the upright members forming the cavity therebetween (Figure 4).

As to claim 9, Adams discloses an indexer for use with a limb support bar extending from a mount, the indexer comprising:

a housing unit **17,19,28** including a supporting base member **18**, the base member having an upright member **19,28**, the upright member defining a cavity;

an indexer translator **20** rotationally mounted within the cavity, the translator directing rotational movement of the limb support bar **25**, the translator including a chamber, the chamber arranged to receive a locking member **22,30**; and

the locking member being movable a plane substantially perpendicular to the base member, the base member and the locking member each including means for retaining the translator a predetermined rotational position, the retaining means normally in a locked position (Figures 2, 4 and 5).

As to claim 11, Adams discloses an indexer comprising a track **21,23** located on the base member **18**, the track providing guide means for rotational movement of the translator **20** (Figure 2).

As to claim 12, Adams discloses an indexer wherein a topside of the upright member **19,28** provides frictional force against the extension bar **25** (via translator **20**), the frictional force allowing the extension bar to be locked in an extended position (Figure 2).

As to claim 15, Adams discloses an indexer wherein the base member **18** comprises a pair of spaced apart upright members **19,28**, the upright members forming the cavity therebetween (Figure 4).

As to claim 16, Adams discloses an indexer for use with a limb support bar extending from a mount, the indexer comprising:

a housing unit **17,19,28** including a stationary supporting base member **18**, the base member having an upright member **19,28**, the upright member defining a cavity;

an indexer translator **20** rotationally mounted within the cavity, the translator directing rotational movement of the limb support bar **25**, the translator including a chamber, the chamber arranged to receive a retainer, the retainer further comprising a locking member **22,30**;

the locking member movable in a plane substantially perpendicular to the base member, the base member and the locking member each including means for retaining the translator in a predetermined rotational position; and

biasing means **32** for normally separating the indexer translator and the locking member (the end of locking member **22** extends through and is thus separated from indexer translator **20**; Figures 2, 4 and 5).

As to claim 17, Adams discloses an indexer wherein the biasing means **32** comprise springs **32,33** (Figure 5).

As to claim 18, Adams discloses an indexer wherein the base member **18** comprises a pair of spaced apart upright the upright members **19,28** forming the cavity therebetween (Figure 4).

***Allowable Subject Matter***

4. Claims 2, 6, 7, 10, 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 2, Adams discloses the claimed indexer with the exception of comprising a channel for retaining the limb extension bar, the channel passing through the housing unit, the index translator, and the locking member.

As to claim 6, Adams discloses the claimed indexer with the exception of wherein the means for retaining the translator comprise meshing teeth.

As to claim 7, Adams discloses the claimed indexer with the exception of wherein the means for retaining the translator comprises plurality of tines.

As to claim 10, Adams discloses the claimed indexer with the exception of comprising a channel for retaining the limb extension bar, the channel passing through the housing unit, the indexer translator, and the locking member.

As to claim 13, Adams discloses the claimed indexer with the exception of wherein the means for retaining the translator comprise meshing teeth.

As to claim 14, Adams discloses the claimed indexer with the exception of wherein the means for retaining the translator comprises a plurality of tines.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to indexer assemblies:

Torrey (US 3,817,512) and Wiley et al. (US 5,689,999) are cited for pertaining to indexers having a housing unit, an indexer translator, a locking member and biasing means.

Adolphson (US 3,100,129) is cited for pertaining to indexers having retaining means comprising a plurality of tines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*MPA*

MPF

10/25/04

*Daniel P. Stodola*

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600